

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the Application of)	
THE DETROIT EDISON COMPANY for)	
Approval of the reconciliation of its 2009)	
Restoration Expense Tracking Mechanism)	Case No. U-16246
and its report regarding 2009 Line)	
Clearance Expense)	
_____)	

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on April 5, 2011.

Exceptions, if any, must be filed with the Michigan Public Service Commission, P.O. Box 30221, 6545 Mercantile Way, Lansing, Michigan 48909, and served on all other parties of record on or before April 26, 2011, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before May 10, 2011. **The Commission has selected this case for participation in its Paperless Electronic Filings Program. No paper documents will be required to be filed in this case.**

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

STATE OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES
For the Michigan Public Service Commission

Theresa A. Sheets
Administrative Law Judge

April 5, 2011
Lansing, Michigan

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PROPOSAL FOR DECISION

I.

BACKGROUND

The Commission's December 23, 2008, order in Case No. U-15244 (December 23 order) provides that The Detroit Edison Company (Detroit Edison) shall, in part, (1) institute a two-way tracker mechanism for the storm and non-storm restoration expenses to be operated in a manner similar to its pension equalization mechanism (PEM), and (2) institute a one-way tracker for line clearance expenses to be structured in a manner similar to Consumers Energy Company's forestry expense tracker in Case No. U-14347. December 23 order, p 100. As to the two-way tracker mechanism, that order provides that the tracker mechanism shall be subject to review for reasonableness and prudence. *Id.* at 54.

A. Two-Way Tracker Mechanism: Storm and Non-Storm Restoration

In its December 23 order, the Commission adopted the calculation proposed by the Commission Staff for projected 2009 total restoration expenses of \$110,149,392. This sum was derived from 2006 storm restoration costs in the amount of \$30,821,000 plus 2006 non-storm restoration costs in the amount of \$70,360,000 for a total cost of \$101,181,000. This sum was adjusted for inflation to arrive at the projected 2009 total restoration expense of \$110,149,392. *Id.* Detroit Edison was, thus, required to use \$110,149,392 as its annual Tracker baseline for its two-way storm and non-storm restoration expense Tracker mechanism (RETM).

In the Commission's subsequent January 11, 2010, order in Case No. U-15768 (January 11 order), Detroit Edison was authorized to implement a storm and non-storm restoration expense tracker, with an increased base expense level of \$117,488,377. January 11 order, p 86.

B. One-Way Tracker Mechanism: Line Clearance Expense

In its December 23 order, the Commission also adopted Staff's calculation for projected 2009 operation and maintenance line clearance expenses in the amount of \$51,412,000. December 23 order, p 55. This sum was derived from 2006 line clearance expenses in the amount of \$47,226,000 adjusted for inflation. *Id.* Detroit Edison was, thus, required to use the amount of \$51,412,000 as its annual tracker baseline for its one-way line clearance tracker mechanism. *Id.*

In the Commission's subsequent January 11 order, Detroit Edison was authorized to decrease its annual tracker baseline for its one-way clearance tracker mechanism to \$47,000,000. January 11 order, p 86.

C. Reconciliation: Self-Implementation

The Commission's January 11 order provides that if a 12-month reconciliation period for any tracker or decoupling mechanism includes a period of time during which the utility has self-implemented rates in accordance with MCL 460.6a(1), then the actual value being tracked during the self-implementation period shall be reconciled with the established sales level or expense in the final order in the utility's most recent rate case approved by the Commission. January 11, 2010 order, p 86. Detroit Edison self-implemented rates in accordance with MCL 460.6a(1) on July 26, 2009, utilizing \$117,488,377 as its baseline for its two-way tracker mechanism and \$47,000,000 as its baseline for its one-way tracker mechanism.

II.

HISTORY OF PROCEEDINGS

On March 23, 2010, Detroit Edison filed its Application, with supporting testimony and exhibits, requesting approval of the reconciliation of its RETM for the period of January 1 through December 31, 2009, and its Line Clearance Expense Report (covering that same time period). In its application, Detroit Edison asserts that, consistent with the Commission's December 23 order and January 11 order, it reconciled the actual 2009 calendar year expense level with the base level in effect from

January 1 through July 25, 2009, and reconciled the actual 2009 calendar year expense level with the levels established during the self-implementation period of July 26 through December 31, 2009. Detroit Edison asserts that its actual restoration expense included in the RETM was less than the amount provided in rates and, thus, proposes a refund in the amount of \$15.3 million including appropriate carrying charges.

Additionally, Detroit Edison prepared its annual Line Clearance Expense Report for the period of January 1 through December 31, 2009, which reflects its actual line clearance expense. Detroit Edison asserts that it under-spent the expense level for 2009 for line clearance expense as compared to the base level established by the Commission. As a result, Detroit Edison proposes a refund in the amount of \$487,398, including appropriate carrying charges.

Pursuant to due notice, a prehearing conference was held in this matter on November 10, 2010, before Administrative Law Judge James N. Rigas (ALJ Rigas), who subsequently reassigned the matter to Administrative Law Judge Theresa A. Sheets (ALJ Sheets). During the course of the prehearing, ALJ Rigas established a schedule for this case and granted intervenor status to the Association of Businesses Advocating Tariff Equity (ABATE). The Staff also participated in the proceedings.

An evidentiary hearing was held on January 25, 2011, before ALJ Sheets. In the course of that hearing, testimony was provided by three utility witnesses: (1) Theresa M. Uzenski (Detroit Edison's Manager of Regulatory Accounting); (2) Heather D. Koenders (its Director of Service Operations); and (3) Kelly A. Holmes (Principal Financial Analyst in Detroit Edison's Regulatory Affairs, Pricing, and Rate Design section). Testimony was also provided by one Staff witness, Daniel J. Blair (Manager of the Rates and Tariff

Section in the Commission's Regulated Energy Division). The parties waived cross examination of Ms. Uzenski, Ms. Koenders, Ms. Holmes and Mr. Blair. Counsel for ABATE did not appear at, or participate in, the January 25, 2011, evidentiary hearing. By e-mail to ALJ Sheets dated Friday, January 21, 2011, counsel for ABATE, Robert A. W. Strong, represented that he would not be filing any motions to strike and agreed that all testimony would be bound into the record without cross-examination.

The resulting record consists of 48 pages of transcript and 7 exhibits, each of which was received into evidence. Pursuant to the schedule established for this case, Detroit Edison and Staff filed initial briefs on February 22, 2011. Staff also filed a reply brief on March 8, 2011. By correspondence dated March 8, 2011, Detroit Edison expressed its election not to file a reply brief and, instead, relied on its position as set forth in its initial brief.

III.

DISCUSSION AND FINDINGS

According to the testimony of all three of Detroit Edison's witnesses, Detroit Edison complied with the January 11 order by allocating baseline amounts to the two periods (January 1 through July 25, 2009, and July 26 through December 31, 2009) based on relative sales volumes for both the restoration expense and line clearance expense. 2 Tr, p 20, 26-27, 29, 33; Exhibits A-1 and A-5 (Attachment A).

A. Restoration Expense Tracking Mechanism

Ms. Uzenski and Ms. Koenders, who sponsored corresponding exhibits in support of their testimony, noted that the baseline for line restoration expense totaled \$113,402 million for the calendar year 2009, and that the actual expense incurred was \$98,193 million (including storm and non-storm restoration expense). 2 Tr, p 20, 27; Exhibits A-1, A-2, and A-4. This resulted in Detroit Edison over-collecting \$15.2 million for line restoration expense during 2009. *Id.* Carrying charges totaled \$119,937 for the year. 2 Tr, p 21; Exhibit A-3. Thus, the utility contends that the total 2009 restoration tracker liability of Detroit Edison is \$15.3 million. 2 Tr, p 20-21; Exhibits A-1, A-2, A-3, and A-4.

In its initial brief and reply brief, Staff concurs with Detroit Edison's methodology for calculating the amount of the refund owed to ratepayers and, further, concurs with Detroit Edison's total proposed restoration tracker liability in the amount of \$15.3 million. Staff's initial brief, p 3 and Staff's reply brief, p 1.

Based on testimony of the witnesses and exhibits entered into evidence, adequate support for Detroit Edison's methodology for calculating actual line restoration expenses for the calendar year 2009 has been provided. ALJ Sheets, thus, finds that Detroit Edison's final \$15.3 million liability calculation, representing sums over-collected by Detroit Edison in 2009 to be refunded to ratepayers, should be adopted.

B. 2009 Line Clearance Report

The same methodology was used to reconcile line clearance baseline amounts and liabilities relative to line clearance expenses for calendar year 2009, as set forth in

Detroit Edison's Line Clearance Report. See Exhibit A-5. All three of Detroit Edison's witnesses testified, again with corresponding exhibits in support of their testimony, that the total tracker baseline for line clearance expenses for 2009 was \$49,457,000. 2 Tr, p 21, 29 and 33; Exhibit A-5. According to these witnesses, Detroit Edison incurred \$49,014,000 in actual line clearance expenses during 2009, which resulted in an overage of \$443,000. See Exhibit A-5. With the addition of carrying charges of \$44,874, the total liability Detroit Edison calculates for line clearance expense is \$487,398. *Id.*

Again, MPSC Staff concurs with Detroit Edison's methodology for calculating the amount of the refund owed to ratepayers and, further, concurs with Detroit Edison's proposed total line clearance liability in the amount of \$487,398. Staff's initial brief, p 3 and Staff's reply brief, p 1.

Based on testimony of the witnesses and exhibits entered into evidence, adequate support for Detroit Edison's methodology for calculating actual line clearance expenses for the calendar year 2009 has been provided. ALJ Sheets, thus, finds that Detroit Edison's final \$487,398 liability calculation, representing sums over-collected by Detroit Edison in 2009 to be refunded to ratepayers, should be adopted.

C. Refund Methodology

In light of the foregoing, the only remaining issue to address concerns the specific methodology for refunding the \$15.3 million related to restoration activities and refunding the \$487,398 arising from line clearance efforts. As reflected by the following discussion of the competing testimony offered by Detroit Edison and the Staff with

regard to this issue, there was, at least initially, some dispute between these two parties regarding the most appropriate refund methodology to adopt.

1. Detroit Edison: Direct Testimony of Kelly Holmes

Exhibit A-6, prepared by Kelly Holmes, sets forth Detroit Edison's proposal for the manner in which the RETM refund factor would be developed and applied, including the amounts allocated to the various customer classes. Ms. Holmes testified that the portion of the total refund belonging to specific customer classes was allocated based on the Distribution Cost of Services approved in Case No. U-15768. 2 Tr, p 35. Ms. Holmes, grouped the customers into three different billing groups: (1) Residential, (2) Commercial & Industrial, and (3) Unmetered and used these groupings to allow for the surcharge to be implemented in a manner similar to the Detroit Edison's PEM and the Regulatory Asset Recovery Surcharge. *Id.* She included unmetered sales as their own group because their credit would "be implemented on a percentage basis." *Id.* Ms. Holmes testified that, based on these groupings; she obtained the Distribution Cost of Service in Case No. U-15678 and the corresponding cost allocations to each of the groups. *Id.* She then applied these cost allocation percentages to the total RETM amount to be refunded to determine the share of the total refund to allocate to each of the customer class groupings. *Id.*

Ms. Holmes further testified that the proposed credits for each of the various customer classes were calculated using Detroit Edison's sales forecast which was approved in the January 11 order. *Id.* at 36. She used the monthly detail of the sales forecast and calculated the credit on a per kilowatt hour basis or the respective

percentage basis, to apply to customer's bills on a bills rendered basis for the respective month. *Id.* For the unmetered class, she divided the per kilowatt hour credit by the average rate for the classes from Case No. U-15768 to develop the refund factor on a percentage basis. *Id.*

Ms. Holmes testified that, because the numbers are based on forecasted sales, Detroit Edison would "true up" the refund each month by reviewing actual sales versus forecasted sales. At that time, the billing factors would be calculated for the true-up refund using Detroit Edison's most current forecast available at the time. *Id.* at 36-37.

The refund for over-collected line clearance expense, set forth in the "2009 Line Clearance Report," utilizes the same methodology for refunds as that used for restoration expenses set forth above. See Exhibit A-5.

2. Staff: Direct Testimony of Daniel J. Blair

Staff's witness, Daniel J. Blair, testified that he agreed with and recommended that the Commission adopt Detroit Edison's refund calculation methodology for both the RETM, as shown on Exhibit A-5, and the Line Clearance Tracker as shown on Exhibit A-6. Staff, however, initially proposed a different refund methodology. 2 Tr, p 50.

Daniel J. Blair testified that a refund methodology be implemented so that any residual refund owed to ratepayers is at or below the rate schedule specific residual refund limit. *Id.* at 51. Mr. Blair testified that, due to the difference between forecasted sales and actual sales, it is possible that there will be residual amounts that remain owing to ratepayers after the initial refund. *Id.*

Mr. Blair explained in his testimony that the residual refund limit is based on the smallest billable amount that the company can charge a customer and is an amount that the residual must be reduced to before the company can cease its attempts to complete the refund. *Id.* Mr. Blair testified that the projected sales volumes for the refund month are multiplied by the minimum billable unit rate to arrive at the residual refund limit. *Id.* Thus, the residual refund limit should be based on the projected sales for the initial refund and that Detroit Edison should continue refunding monies to customers until the residual refund limit is reached. *Id.* Mr. Blair further testified that, prior to each such refund, Detroit Edison should submit a tariff sheet reflecting the refund credit and dates of planned implementation for each rate schedule and, once the residual is reduced to the limit, Detroit Edison may cease its refund of the residual. *Id.* Mr. Blair explained that this methodology, “ensures eventual resolution of residual refund amounts that are the inevitable result of deriving refund rates from projected sales and with the need to roll the residual over into another mechanism that might not be entirely appropriate.” *Id.* at 51-52. It was his position that this refund methodology, “will allow the process to come to a conclusion and will allow refunds to be provided regardless of whether Detroit Edison has any other tracker in place, as well as resolve the issue of the residual refund disposal issue.” *Id.* at 52.

Mr. Blair indicated that, after the residual balances are reduced to within the residual refund limit, Detroit Edison may retain them. *Id.* He also suggested, however, that after the refund is completed, the Commission should require Detroit Edison to file a letter in this docket showing the residual for each refund iteration, how it was calculated, and the calculation of the refund factors used. *Id.*

3. Detroit Edison: Rebuttal testimony of Kelly A. Holmes

Ms. Holmes filed rebuttal testimony disagreeing with Staff's proposed refund methodology as it specifically relates to the residual refund limit. Specifically, Ms. Holmes testified that the, "residual refund limits specific to each rate schedule are so small that it would be impractical to continue the refund until the residual amounts reached this level." 2 Tr, p 39-40. She further testified that under the Staff's proposed methodology, "the refund process would be drawn out and could potentially continue indefinitely." *Id* at 40. Ms. Holmes also testified that the Staff's methodology does not address the possibility of over-refunds and the treatment of such an occurrence. According to Ms. Holmes, as the residual refund limit is approached, the refund iterations would have little or no impact on the refund balance, thus not accomplishing Staff's goal of resolving the residual refund disposal issue. *Id*. Finally, Ms. Holmes testified that the RETM and Line Clearance Expense are subject to annual reconciliation and, thus, proposed that, rather than doing continuous reiterations on the refund balance, the residual balance be included as part of the reconciliation filed the following year. *Id*. at 41.

4. Resolution

In response to this rebuttal testimony, Staff modified its position regarding the refund methodology and, "*for the purposes of this case only*," now recommends that the Commission adopt Detroit Edison's proposal to roll-over the residual refund amount to

Detroit Edison's 2010 RETM and Line Clearance Reconciliation. Staff's initial brief, p 3-4 and reply brief, p 1-2.

Based on Staff's recent decision to allow the adoption of Detroit Edison's proposed refund methodology, and in light of the fact that adequate support for that methodology has been provided in this proceeding, the ALJ finds that the utility's proposed refund methodology should be adopted, albeit for purposes of this case only.

IV.

CONCLUSION

In light of the agreement of the parties regarding the specific calculation of refunds at issue in this matter, and based on Staff's ultimate agreement to Detroit Edison's refund methodology, ALJ Sheets recommends that: (1) the Commission adopt Detroit Edison's RETM and Line Clearance refund calculations and, (2) adopt, for purposes of this case only, Detroit Edison's proposal to roll-over residual refund amounts to Detroit Edison's 2010 RETM and Line Clearance Reconciliation case.

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